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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/050,203	01/16/2002	Gregory J. Sesselmann	073328-0122	6810
26371	7590	08/14/2006	EXAMINER	
FOLEY & LARDNER LLP 777 EAST WISCONSIN AVENUE MILWAUKEE, WI 53202-5306			MAI, TRJ M	
			ART UNIT	PAPER NUMBER
			3727	

DATE MAILED: 08/14/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/050,203

Applicant(s)

SESSELMANN, GREGORY J.

Examiner

Tri M. Mai

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-11, 13-16, 18-21, 23-25, 29-50, 52-55, 59 and 61-68 is/are pending in the application.
- 4a) Of the above claim(s) 2-9, 29-48 and 62-68 is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1, 10, 11, 13-16, 18-21, 23-25, 49, 50, 52-55, 59 and 61 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. ____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 05/01/03; 06/06/03; 09/06/03
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: ____.

12/7/04 : 04/18/05
; 06/24/05

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1. Claims 2-8, 29-48, and 62-68 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected invention as previously set forth.

Newly submitted claims 62-68 directed to an invention that is independent or distinct from the invention originally claimed for the following reasons:

- I. Claims 1, 10-11, 13-16, 18-21, 23-25, 49-50, 52-55, 59, and 61 drawn to a storage device, classified in class 224, subclass 576,
- II. Claims 62-68 drawn to a method of reducing the detection by wild life, classified in class 422, subclass 125.

The inventions are distinct, each from the other because of the following reasons:

Inventions II and I are related as process and apparatus for its practice. The inventions are distinct if it can be shown that either: (1) the process as claimed can be practiced by another and materially different apparatus or by hand, or (2) the apparatus as claimed can be used to practice another and materially different process. (MPEP § 806.05(e)). In this case, the apparatus as claimed can be used by military personnel for chemical or hazardous attacks instead of being used in a wildlife environment.

Since applicant has received an action on the merits for the originally presented invention, this invention has been constructively elected by original presentation for prosecution on the merits. Accordingly, claims 62-68 are withdrawn from consideration as being directed to a non-elected invention. See 37 CFR 1.142(b) and MPEP § 821.03.

2. Claims 1, 10-11, 13-16, 18-21, 23-25, 49-50, 52-55, 59, and 61 are rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over the claims 1-5 of U.S. Patent No. 5539930, in view of Celik (5467907) or Wikipedia. Claims 1-5 teaches an

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accessory duffle bag with an odor absorption system. It would have been obvious to one of ordinary skill in the art to provide camouflage pattern as taught by Wikipedia (Wikipedia teaches that camouflage pattern is known to be used in military and fashion). Furthermore, Celik teaches that it is known in the art to provide camouflage in a bag. It would have been obvious to one of ordinary skill in the art to provide the claims 1-5 with camouflage pattern to enable one to adapt for military and/or fashion and/or hunting use.

3. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the camouflage pattern along with the highly visible color must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will

be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

4. Claims 13, 23, 52, and 61 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention.

The original disclosure does not teach the visible color and the camouflage color scheme together. This is a new matter rejection.

5. Claims 13, 23, 52, and 61 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

These claims set forth a camouflage color scheme to avoid detection and then set forth the highly visible color scheme is confusing.

6. Claims 1, 13, 15, 16, 49, 50, 52, 54, and 55 are rejected under 35 U.S.C. 102(b) as being anticipated by MIL-443926J (Mil '926), or in the alternative, under 35 U.S.C. 103(a) as being unpatentable over Mil '926 in view of Mil C43858 (Mil 858). MIL '926 teaches storage device (note the Fig. 1 showing a suit and trouser comprising storage device), with camouflage color (page 1, 132; page 4, at 3.3.1), with respect to the base layer incorporation activated carbon. It is noted that MIL-C-43858 is part of the document. Note that Mil-C43858 teaches the cloth various types I-III with activated carbon. In the alternative, It would have been obvious to one of ordinary skill in the art to provide the activated carbon to enable one to be protected in chemical

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attacks. Regarding the amount of carbon. It would have been obvious to one of ordinary skill in the art to provide the carbon in the quality as set forth to provide the desired amount of carbon in the layer.

Regarding claim 16, note the carbon is bonded to base in type I, II, III.

Regarding claim 49, one of the pockets in the suit and trouser is the accessory storage device as claimed.

7. Claims 14, and 53 are rejected under 35 U.S.C. 103(a) as being unpatentable over the Mil '926 rejection as set forth above, and further in view of Mitoni et al. (4500581).

Furthermore, Mitoni teaches that it is known in the art to provide carbon 68% of weight of a fabric having 51 g, which is about 34 gm. It would have been obvious to one of ordinary skill in the art to provide the carbon in the quality as set forth to provide the desired amount of carbon in the layer.

8. Claim 1, 10-16, 19-21, 23-25, 49, 50, and 52-55 are rejected under 35 U.S.C. 103(a) as being unpatentable over Mills in view of Mil '858 or Langston. Mills teaches a duffle bag that can be used for military purpose (col. 1, ln. 39). It would have been obvious to one of ordinary skill in the art to make the Mills' bag from the material as set forth as taught by Mil '585 or Langston to enable one protect one from chemical attack and/or hazardous events. With respect to the camouflage, it is known to provide camouflage pattern to keep the soldier hidden.

With respect to the carbon, it would have been obvious to one of ordinary skill in the art to provide the carbon in the quality as set forth to provide the desired amount of carbon in the layer.

With respect to the visible color scheme, As best understood view of the 112 matters above, it is noted that the visible color scheme does not impart any structure over the color scheme of over the rejections of either Mills. Furthermore, Official Notice is taken that teaches that it is known in the art to provide a visible color scheme. It would have been obvious to one of ordinary skill in the art to provide additional visible color scheme for detection easily.

9. Claims 14, 21, and 53 are rejected under 35 U.S.C. 103(a) as being unpatentable over the Mil '926 rejection as set forth above, and further in view of Mitoni et al. (4500581).

Furthermore, Mitoni teaches that it is known in the art to provide carbon 68% of weight of a fabric having 51 g, which is about 34 gm. It would have been obvious to one of ordinary skill in the art to provide the carbon in the quality as set forth to provide the desired amount of carbon in the layer.

10. Claims 18, 59, and 61 are rejected under 35 U.S.C. 103(a) as being unpatentable over either Mil'926 or Mills rejections, as set forth above, and further in view of either Winfield (Technical Bulletin Sar-3) or Langston (GB 2207390). Note the 3 layers in the figure in page 3, It would have been obvious to one of ordinary skill in the art to provide the three layers as taught by Winfield to provide the desired structure for the device. Langston also teaches 3 layers, outer layer being non-woven (pg. 5, ln. 15, and the middle layer being carbon layer (pg. 5, ln. 33).

11. Claims 21, and 53 are rejected under 35 U.S.C. 103(a) as being unpatentable over Mills rejection, as set forth above, and further in view of Mitoni '581. It would have been obvious to one of ordinary skill in the art to provide the activated carbon in the range as claimed to provide the desired range of absorbtion.

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12. Claim 59 are rejected under 35 U.S.C. 103(a) as being unpatentable over Mills rejection, as set forth above, and further in view of Sar-3 or Langston. Note the 3 layers in the figure in page 3, It would have been obvious to one of ordinary skill in the art to provide the three layers as taught by Sar-3 to provide the desired structure for the clothing/bag of Mills.

13. Claims 1, 10, 11, 13-16, 19, 20, 21, 23, 24, 25, 49, 50, 52, 54, and 55 are rejected under 35 U.S.C. 103(a) as being unpatentable over Phelps, Sr. (4057854) in view of either Popper (3922723) or Mil '858, and further in view of Wikipedia. Phelps, Sr. teaches a duffle bag. It would have been obvious to one of ordinary skill in the art to provide a base layer with a carbon-activated layer as taught by either Popper or Mil '858 to help remove odor. With respect to the camouflage, it would have been obvious to one of ordinary skill in the art to provide the camouflage pattern as taught by Wikipedia for fashion and/or military purposes. With respect to the color visible scheme, it would have been obvious to one of ordinary skill in the art to provide a visible color to the bag so that one can identify the bag easily.

14. Applicant's arguments with respect to claims have been considered but are moot in view of the new ground(s) of rejection.

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period

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will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Tri M. Mai whose telephone number is (571)272-4541. The examiner can normally be reached on 7:30am-5:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Nathan Newhouse can be reached on (571)272-4544. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Tri M. Mai
Primary Examiner
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